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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 LPL FINANCIAL CORPORATION,) Case No. 08cv0038-JAH(BLM)
12 formerly known as)
13 LINSICO/PRIVATE LEDGER CORP,) **ORDER TO SHOW CAUSE WHY**
14 Plaintiff,) **SANCTIONS SHOULD NOT BE**
15 v.) **IMPOSED**
16 FIDELITY AND DEPOSIT COMPANY OF)
17 MARYLAND,)
Defendant.)
_____)

18 On July 7, 2008, the Court convened an Early Neutral
19 Evaluation Conference. Plaintiff failed to provide a corporate
20 representative with full and complete settlement authority. In the
21 Notice and Order for Early Neutral Evaluation Conference filed May
22 30, 2008, this Court ordered that:

23 **Full Settlement Authority Required:** In addition to
24 counsel who will try the case, a party or party
representative with full settlement authority¹ must be

25 _____
26 ¹ "Full settlement authority" means that the individuals at the
27 settlement conference must be authorized to explore settlement options fully and
28 to agree at that time to any settlement terms acceptable to the parties.
Heileman Brewing Co. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989). The

1 present for the conference. In the case of a corporate
2 entity, an authorized representative of the corporation
3 who is not retained outside counsel must be present and
4 must have discretionary authority to commit the company
5 to pay an amount up to the amount of the Plaintiff's
prayer (excluding punitive damages prayers). The purpose
of this requirement is to have representatives present
who can settle the case during the course of the
conference without consulting a superior.

6 (emphasis in original) Doc. No. 8. Plaintiff violated this aspect
7 of the Court's order.

8 Therefore, it is hereby ordered that Plaintiff's corporate
9 representative with full settlement authority appear with counsel
10 before the Honorable Barbara L. Major on July 22, 2008 at 9:00 a.m.
11 in Courtroom A, U.S. District Court, 940 Front Street, San Diego,
12 California 92101 to show cause why sanctions should not be imposed
13 for failing to comply with this Court's order. Plaintiff and its
14 counsel shall file declarations and may file legal briefs regarding
15 the imposition of sanctions on or before July 11, 2008. Those
16 parties who complied with this Court's order may file declarations
17 on or before July 18, 2008 detailing the costs they incurred as a
18 result of Plaintiff's failure to comply.

19 **IT IS SO ORDERED.**

20 DATED: July 8, 2008



21 BARBARA L. MAJOR
22 United States Magistrate Judge
23

24 person needs to have "unfettered discretion and authority" to change the
25 settlement position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481,
485-86 (D. Ariz. 2003). The purpose of requiring a person with unlimited
26 settlement authority to attend the conference contemplates that the person's view
27 of the case may be altered during the face to face conference. Id. at 486. A
28 limited or a sum certain of authority is not adequate. See Nick v. Morgan's
Foods, Inc., 270 F.3d 590, 595-97 (8th Cir. 2001).

1 COPY TO:

2 HONORABLE JOHN A. HOUSTON
3 U.S. DISTRICT JUDGE

4 ALL COUNSEL AND PARTIES
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